To: DeYoung, Robyn[DeYoung.Robyn@epa.gov]
Cc: Chris Lamie[Chris.Lamie@erg.com]
From: Jeremy Fisher
Sent: Thur 6/11/2015 6:01:33 PM
Subject: RE: Response to Comments

Hey Robyn,

I think that for the most part, these actually won't be that hard to respond to. I think you'll have to fill in actual citations to the preamble, and I'm going to make some assumptions about what the preamble actually says in order to respond to some of these. Are you able to query OGC if there's a pre-fab response that says something along the lines of "you don't need to stick to the dictates of BSER – there are a lot of options out there for you." Below is a little more of a ramble then I'd like, but it gets the idea across, and all of it is citable. And given a well-structured answer like this, you could respond to Alaska, Texas, Tennessee and a few of the other ones.

The final rule grants states significant flexibility in determining how compliance requirements will be met, including but not limited to state sponsored or provided energy efficiency and/or renewable energy programs, the acquisition of renewable energy or energy efficiency credits by EGU for the purposes of meeting a permitted rate requirement, the retirement of mass-based allowances by EGUs, or other state specific policies and programs designed to reduce emissions from covered sources or increase renewable energy and energy efficiency by the state or on behalf of a state. The specific application of BSER to a state is used only for the purposes of defining a target rate, and does not need to be the ultimate mechanism by which the state or EGUs comply with the final rule. As discussed in the preamble, states have demonstrated the ability to craft and implement numerous forms of enabling legislation and rulemakings, including multi-state trading markets for emissions and renewable energy, renewable portfolio standards, and energy efficiency targets and financial incentives, and have demonstrated that electricity market participants such as independent generators and load distribution companies, integrated utilities, cooperatives, and municipal utilities are all able to participate in these diverse markets and programs.

I'll try to throw some thoughts to the individual comments soon.

Basically they amount to (in general terms):

- States have a lot of flexibility in implementation. If a single unit can't change its output because of reliability, ownership, market rules or simple inertia, they should work with their state to ensure that the state adopts a mechanism that allows trading such that units that can change output can sell this flexibility to less flexible units.

- Compliance can be met at the level of the state overall or individual EGU. Specific load distribution companies are not necessary implicated by the rule unless the state chooses those entities to be the compliant parties (i.e. it could be EGUs instead)

•□□□□□□□□ Centrally dispatched electricity markets have well established mechanisms of incorporating carbon costs and thermal limits (see RGGI in NE, NY, and PJM)

•□□□□□□□□ Your state's lack of regulatory inertia is a state problem, not an EPA problem

•□□□□□□□□ Even Western states that don't operate within a centrally organized market or large RTO have developed effective mechanisms of buying and selling power economically in bilateral trades

From: DeYoung, Robyn [mailto:DeYoung.Robyn@epa.gov]
Sent: Wednesday, June 10, 2015 4:05 PM
To: Jeremy Fisher
Cc: Chris Lamie
Subject: Response to Comments

Hi Jeremy,

Thanks for taking a look at these comments. Please send me draft responses COB Friday and we'll work through them for a final version later next week.

Generally we are state whether we disagree or agree with the answer and then a rationale for why we either agree or disagree with the comment. I can work on cross referencing with the Preamble when the time comes. I'm going to ask for applicable preamble language so we can see what is already addressed there and will send that to you as soon as I get it.

Best,

Robyn (Kenney) DeYoung

202-343-9080

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U.S. EPA

State and Local Climate and Energy Program

http://epa.gov/statelocalclimate/